

AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 920**

**Introduced by Assembly Member Nakano**

February 20, 2003

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An act to amend Sections 1102.6a, 1102.17, and 1103.2 of the Civil Code, and to amend ~~Sections 53343.1 and~~ Section 53754 of the Government Code, relating to real estate disclosures.

LEGISLATIVE COUNSEL'S DIGEST

AB 920, as amended, Nakano. Real estate disclosures: nuisance: local government.

(1) Existing law requires the disclosure of specified attributes of residential real property prior to the transfer of title, including disclosures required by a city or county, as specified.

This bill would ~~revise the requirement for~~ *require* a seller of residential real property, who has actual knowledge ~~there of~~ *thereof*, to disclose that ~~the property is affected by an industrial use, to disclose that the property is adjacent to an industrial use or affected by a nuisance created by such a use.~~ The bill would also provide, with respect to disclosure required by a city or county, that on or after January 1, 2005, the provision of an airport influence area disclosure, as specified, shall be deemed to satisfy any city or county disclosure requirements unless a city or county adopts a modified statutory disclosure form regarding the proximity or effects of an airport.

(2) Existing law provides that certain hazardous area disclosures may be provided in a Local Option Real Estate Disclosure Statement, as specified.

This bill would specify that these disclosures may be provided in the report of a consultant, as specified.

~~(3) Existing law requires a community facilities district formed after January 1, 1992, to prepare an annual report regarding special taxes and other moneys collected, and moneys expended, upon request.~~

~~This bill would further require a community facilities district to make available to the public a list or database of parcels subject to assessment by the district, as specified. The bill would impose a state-mandated local program by requiring new duties of community facilities local districts.~~

~~(4) Existing law requires a legislative body of a district that collects assessments to secure specified bonds, to provide for a notice to sellers of real property subject to assessment, as specified.~~

~~This bill would require the legislative body to make available to the public, as specified, a list or database of parcels subject to assessment by the district, and would require the legislative body to provide the tax collector with a telephone number or World Wide Web address by which a property owner may obtain the above-described notice. The bill would impose a state-mandated local program by requiring new duties of local districts.~~

~~(5)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1102.6a of the Civil Code is amended  
2 to read:

1     1102.6a. (a) On and after July 1, 1990, any city or county may  
2     elect to require disclosures on the form set forth in subdivision (b)  
3     in addition to those disclosures required by Section 1102.6.  
4     However, this section does not affect or limit the authority of a city  
5     or county to require disclosures on a different disclosure form in  
6     connection with transactions subject to this article pursuant to an  
7     ordinance adopted prior to July 1, 1990. Such an ordinance  
8     adopted prior to July 1, 1990, may be amended thereafter to revise  
9     the disclosure requirements of the ordinance, in the discretion of  
10    the city council or county board of supervisors.

11    (b) Disclosures required pursuant to this section pertaining to  
12    the property proposed to be transferred, shall be set forth in, and  
13    shall be made on a copy of, the following disclosure form:

NOTE TO PRINTING OFFICE: INSERT CAMERA-READY  
COPY HERE

for Local Option Real Estate Transfer Disclosure Statement

as printed on pages 1129 to 1130 of the 1989 Statutes.

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(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the disclosure form specified in subdivision (b) for a purpose other than that specified in this section.

(d) On and after January 1, 2005, unless a city or county adopts a different or additional disclosure form pursuant to this section regarding the proximity or effects of an airport, the provision of an “airport influence area” disclosure pursuant to Section 11010 of the Business and Professions Code, or Section 1103.4 or 1353, shall be deemed to satisfy any city or county requirements for the disclosure of airports in connection with transfers of real property.

SEC. 2. Section 1102.17 of the Civil Code is amended to read:

1102.17. The seller of residential real property subject to this article who has actual knowledge that the property is adjacent to, or zoned to allow, an industrial use described in Section 731a of the Code of Civil Procedure, or affected by a nuisance created by such a use, shall give written notice of that knowledge as soon as practicable before transfer of title.

SEC. 3. Section 1103.2 of the Civil Code is amended to read:

1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:

#### NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: \_\_\_\_\_

The transferor and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective transferees may rely on this information in deciding whether and on what terms to purchase the subject property. Transferor hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

1 The following are representations made by the transferor and his or her  
2 agent(s) based on their knowledge and maps drawn by the state and federal  
3 governments. This information is a disclosure and is not intended to be part  
4 of any contract between the transferee and the transferor.  
5

6 THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZ-  
7 ARDOUS AREA(S):  
8

9 A SPECIAL FLOOD HAZARD AREA (Any type Zone “A” or  
10 “V”) designated by the Federal Emergency Management Agency.  
11

12 Yes \_\_\_\_ No \_\_\_\_ Do not know and  
13 information not  
14 available from local  
15 jurisdiction \_\_\_\_  
16

17 AN AREA OF POTENTIAL FLOODING shown on a dam failure  
18 inundation map pursuant to Section 8589.5 of the Government Code.  
19

20 Yes \_\_\_\_ No \_\_\_\_ Do not know and  
21 information not  
22 available from local  
23 jurisdiction \_\_\_\_  
24

25 A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to  
26 Section 51178 or 51179 of the Government Code. The owner of this  
27 property is subject to the maintenance requirements of Section 51182  
28 of the Government Code.  
29

30 Yes \_\_\_\_ No \_\_\_\_  
31

1 A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL  
2 FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125  
3 of the Public Resources Code. The owner of this property is subject  
4 to the maintenance requirements of Section 4291 of the Public  
5 Resources Code. Additionally, it is not the state's responsibility to  
6 provide fire protection services to any building or structure located  
7 within the wildlands unless the Department of Forestry and Fire  
8 Protection has entered into a cooperative agreement with a local  
9 agency for those purposes pursuant to Section 4142 of the Public  
10 Resources Code.

11  
12 Yes \_\_\_\_ No \_\_\_\_

13  
14 AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the  
15 Public Resources Code.

16  
17 Yes \_\_\_\_ No \_\_\_\_

18  
19 A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public  
20 Resources Code.

21  
22 Yes (Landslide Zone) \_\_\_\_\_ Yes (Liquefaction Zone) \_\_\_\_\_  
23 No \_\_\_\_ Map not yet released by  
24 state \_\_\_\_

25  
26 THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE  
27 REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE  
28 ASSISTANCE AFTER A DISASTER.

29  
30 THE MAPS ON WHICH THESE DISCLOSURES ARE BASED  
31 ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT  
32 DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY  
33 WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S)  
34 AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL  
35 ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS  
36 THAT MAY AFFECT THE PROPERTY.  
37





Transferor represents that the information herein is true and correct to the best of the transferor's knowledge as of the date signed by the transferor.

Signature of  
Transferor(s) \_\_\_\_\_ Date \_\_\_\_\_

Signature of  
Transferor(s) \_\_\_\_\_ Date \_\_\_\_\_

Agent represents that the information herein is true and correct to the best of the agent's knowledge as of the date signed by the agent.

Signature of Agent \_\_\_\_\_ Date \_\_\_\_\_

Signature of Agent \_\_\_\_\_ Date \_\_\_\_\_

Transferee represents that he or she has read and understands this document.

Signature of  
Transferee(s) \_\_\_\_\_ Date \_\_\_\_\_

Signature of  
Transferee(s) \_\_\_\_\_ Date \_\_\_\_\_

(b) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the transferor or transferor's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated.



1 The transferor or transferor's agent shall attach a copy of the Letter  
2 of Map Revision to the disclosure statement.

3 (d) If the Federal Emergency Management Agency has issued  
4 a Letter of Map Revision confirming that a property is within a  
5 special flood hazard area and the location of the letter has been  
6 posted pursuant to subdivision (g) of Section 8589.3 of the  
7 Government Code, then the transferor or transferor's agent shall  
8 mark "Yes" on the Natural Hazard Disclosure Statement, even if  
9 the map has not yet been updated. The transferor or transferor's  
10 agent shall attach a copy of the Letter of Map Revision to the  
11 disclosure statement.

12 (e) The disclosure required pursuant to this article may be  
13 provided by the transferor and the transferor's agent in the report  
14 of a consultant described in Section 1103.4 or the Local Option  
15 Real Estate Disclosure Statement described in Section 1102.6a,  
16 provided that the report of the consultant or the Local Option Real  
17 Estate Disclosure Statement includes substantially the same  
18 information and substantially the same warnings that are required  
19 by this section.

20 (f) The disclosure required by this article is only a disclosure  
21 between the transferor, the transferor's agents, and the transferee,  
22 and shall not be used by any other party, including, but not limited  
23 to, insurance companies, lenders, or governmental agencies, for  
24 any purpose.

25 (g) In any transaction in which a transferor has accepted, prior  
26 to June 1, 1998, an offer to purchase, the transferor, or his or her  
27 agent, shall be deemed to have complied with the requirement of  
28 subdivision (a) if the transferor or agent delivers to the prospective  
29 transferee a statement that includes substantially the same  
30 information and warning as the Natural Hazard Disclosure  
31 Statement.

32 ~~SEC. 4. Section 53343.1 of the Government Code is amended~~  
33 ~~to read:~~

34 ~~53343.1. For any community facilities district formed after~~  
35 ~~January 1, 1992, the community facilities district shall, prepare, if~~  
36 ~~requested by a person who resides in or owns property in the~~  
37 ~~district, within 120 days after the last day of each fiscal year, a~~  
38 ~~separate document titled an "Annual Report." The district may~~  
39 ~~charge a fee for the report not exceeding the actual costs of~~

1 ~~preparing the report. The report shall include the following~~  
2 ~~information for the fiscal year:~~

3 ~~(a) The amount of special taxes collected for the year.~~

4 ~~(b) The amount of other moneys collected for the year and their~~  
5 ~~source, including interest earned.~~

6 ~~(c) The amount of moneys expended for the year.~~

7 ~~(d) A summary of the amount of moneys expended for the~~  
8 ~~following:~~

9 ~~(1) Facilities, including property.~~

10 ~~(2) Services.~~

11 ~~(3) The costs of bonded indebtedness.~~

12 ~~(4) The costs of collecting the special tax under Section 53340.~~

13 ~~(5) Other administrative and overhead costs.~~

14 ~~(e) For moneys expended for facilities, including property, an~~  
15 ~~identification of the categories of each type of facility funded with~~  
16 ~~amounts expended in each category, including the total percentage~~  
17 ~~of the cost of each type of facility that was funded with bond~~  
18 ~~proceeds or special taxes.~~

19 ~~(f) For moneys expended for services, an identification of the~~  
20 ~~categories of each type of service funded with amounts expended~~  
21 ~~in each category, including the total percentage of the cost of each~~  
22 ~~type of service that was funded with bond proceeds or special~~  
23 ~~taxes.~~

24 ~~(g) For moneys expended for other administrative costs, an~~  
25 ~~identification of each of these costs.~~

26 ~~(h) A certification and explanation by the district of how the~~  
27 ~~moneys described in subdivisions (d), (e), (f), and (g) comply with~~  
28 ~~Section 53343.~~

29 ~~The Annual Report shall contain references to the relevant~~  
30 ~~sections of the resolution of formation of the district so that~~  
31 ~~interested persons may confirm that bond proceeds and special~~  
32 ~~taxes are being used for authorized purposes. The annual report~~  
33 ~~shall be made available to the public upon request.~~

34 ~~(i) A community facilities district shall make available to the~~  
35 ~~public a list or database of parcels subject to assessment by the~~  
36 ~~district. The database shall contain sufficient information to~~  
37 ~~complete a disclosure notice concerning the special tax as~~  
38 ~~provided for in Section 53340.2. The database may be provided in~~  
39 ~~any reasonably accessible form, including, but not limited to, an~~  
40 ~~entry on a county Web site or the district's own Web site.~~

1     ~~SEC. 5.~~

2     *SEC. 4.* Section 53754 of the Government Code is amended  
3 to read:

4     53754. (a) The legislative body collecting assessment  
5 installments to secure bonds issued pursuant to the Improvement  
6 Bond Act of 1915 (Division 10 (commencing with Section 8500)  
7 of the Streets and Highways Code) shall designate an office,  
8 department, or bureau of the local agency that shall be responsible  
9 for annually preparing the current tax roll of assessment  
10 installment obligations by assessor's parcel number on property  
11 within the assessment district. The designated office, department,  
12 or bureau shall be the same office, department, or bureau that  
13 prepares the "NOTICE OF SPECIAL TAX" required by Section  
14 53340.2. If notice is required under both this section and Section  
15 53340.2, the notices shall, to the extent feasible, be combined into  
16 a single notice document. The designated office, department, or  
17 bureau shall establish procedures to promptly respond to inquiries  
18 concerning installments on the current tax roll. Neither the  
19 designated office, department, or bureau, nor the legislative body,  
20 shall be liable if any estimate of assessment installments on the  
21 current tax roll is inaccurate, nor for any failure of any seller to  
22 request a Notice of Special Assessment or to provide the notice to  
23 a buyer.

24     (b) For purposes of enabling sellers of real property subject to  
25 the levy of assessments to satisfy the notice requirements of  
26 subdivision (b) of Section 1102.6 of the Civil Code, the designated  
27 office, department, or bureau shall furnish a Notice of Assessment  
28 to any individual requesting the notice or any owner of property  
29 subject to an assessment levied by the local agency within five  
30 working days of receiving a request for ~~such~~ the notice. The local  
31 agency may charge a reasonable fee for this service not to exceed  
32 ten dollars (\$10).

33     (c) The notice shall contain the heading "NOTICE OF  
34 SPECIAL ASSESSMENT" in type no smaller than 8-point type,  
35 and shall be in substantially the following form. The form may be  
36 modified as needed to clearly and accurately present the required  
37 information or to consolidate information about two or more  
38 assessment districts that collect installments of assessments with  
39 respect to the lot, parcel, or unit. The notice shall be completed by

1 the designated office, department, or bureau except for the  
2 signatures and date of signing:

3  
4 NOTICE OF SPECIAL ASSESSMENT

5  
6 ASSESSMENT DISTRICT NO. \_\_\_\_\_ OF  
7 (CITY) (COUNTY) (SPECIAL DISTRICT), CALIFORNIA

8  
9 TO: THE PROSPECTIVE PURCHASER OF THE REAL  
10 PROPERTY KNOWN AS:

11  
12 Assessor's Parcel Number: \_\_\_\_\_

13 Street Address: \_\_\_\_\_

14 \_\_\_\_\_.

15  
16 THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR  
17 PURCHASING THIS PROPERTY.

18  
19 This property is within the above-named assessment district. The  
20 assessment district has issued bonds to finance the acquisition or  
21 construction of certain public improvements that are of direct and  
22 special benefit to property within the assessment district. The  
23 bonds will be repaid from annual assessment installments on  
24 property within the assessment district.

25  
26 This property is subject to annual assessment installments of the  
27 assessment district that will appear on your property tax bills, but  
28 which are in addition to the regular property taxes and any other  
29 charges and levies that will be listed on the property tax bill. If you  
30 fail to pay assessment installments when due each year, the  
31 property may be foreclosed upon and sold.

32  
33 The annual assessment installment against this property as shown  
34 on the most recent tax bill for the \_\_\_\_-\_\_\_\_ tax year is \_\_\_\_  
35 dollars (\$\_\_\_\_). Assessment installments will be collected each  
36 year until the assessment bonds are repaid.

37  
38 The public facilities that are being paid for by the money received  
39 from the sale of bonds that are being repaid by the assessments, are:

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(LIST)

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

YOU SHOULD TAKE THIS ASSESSMENT AND THE BENEFITS FROM THE PUBLIC FACILITIES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

YOU MAY OBTAIN A COPY OF THE RESOLUTION CONFIRMING ASSESSMENTS THAT SPECIFIES MORE PRECISELY HOW THE ASSESSMENTS ARE APPORTIONED AMONG PROPERTIES IN THE ASSESSMENT DISTRICT FROM THE \_\_\_\_ (name of jurisdiction) BY CALLING \_\_\_\_ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.

DATE:\_\_\_\_\_

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Buyer



(d) (1) At the request of the legislative body, the tax collector may set forth on the tax bill descriptive information provided by the legislative body to identify each public entity receiving portions of the revenue from the assessment levied pursuant to this chapter.

(2) Each legislative body shall request that the tax collector identify the assessment on the tax bill as “1915 Bond Act Assessment” and provide to the tax collector a telephone number or World Wide Web address by which a property owner may obtain the notice described in subdivision (c).

~~(3) The legislative body shall make available to the public a list or database of parcels subject to assessment by the district. The database shall contain sufficient information to complete a disclosure notice concerning the special tax, as provided in Section 53340.2. The database may be provided in any reasonably accessible form, including, but not limited to, an entry on a county Web site or the district’s own Web site.~~

~~SEC. 6.~~

*SEC. 5.* Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.